

**DECISION**



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**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

*[Protest of Bid Rejection for Lateness]*

**FILE:** B-202920

**DATE:** May 26, 1981

**MATTER OF:** Resource Analysis, Inc.

**DIGEST:**

1. Where protester's initial submission indicates protest is without legal merit, GAO will render decision without obtaining report from agency.
2. Protest against agency refusal to consider proposal, hand-delivered after time for receipt of proposals, is denied where circumstances of late delivery do not fall within any exception of late proposal clause of request for proposals (RFP).
3. Determination of time to close receipt of offers is properly made by officer designated to accept offers.

Resource Analysis, Inc. (Resource), protests the rejection of its proposal under request for proposals (RFP) R1-14-81-29 issued by the Department of Agriculture Forest Service. The proposal was rejected because it was hand-delivered 3 minutes after closing time for receipt of proposals according to the clock at the place designated for receipt of proposals.

This case falls within the ambit of our decisions which hold that where it is clear from a protester's initial submission that the protest is without legal merit, we will decide the matter on the basis of the protester's initial submission without requesting a report from the procuring activity pursuant to our Bid Protest Procedures, 4 C.F.R. part 20 (1980). O.D.N. Productions, Inc., B-194312, April 13, 1979, 79-1 CPD 267.

Resource contends that its hand-carried proposal should be accepted because Resource entered the building before 3:30 p.m., the deadline set by the RFP for

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receipt of proposals, there were no signs or other information giving directions to the place for deposit of proposals, and Resource was detained at the desk of the information receptionist while waiting to ask directions.

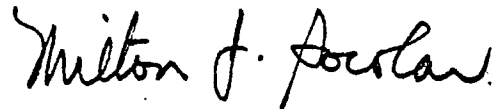
The solicitation provided that hand-carried offers would be received at the place for receipt of offers until 3:30 p.m. It is, therefore, irrelevant that the offeror was in the proper building prior to the deadline. The offeror has the responsibility for timely delivery of the bid or proposal to the proper location and personnel, and late bids or proposals may be considered only in the exact circumstances provided by the late bid and proposal provisions of the solicitation. Briggs Engineering and Testing Co., Inc., B-192943, October 3, 1978, 78-2 CPD 256.

The late proposal provision prohibits consideration of any proposal received at the office designated after the exact time specified for receipt unless it is received before award is made and was sent by registered or certified mail at least 5 days before the date specified for receipt of offers or was sent by mail and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation, or is the only proposal received. The late proposal clause contains no provision permitting acceptance of late hand-carried proposals. By choosing methods of delivery other than those specified in the late proposal clause, an offeror assumes a high degree of risk that its proposal will be rejected if untimely delivered and should allow a reasonable time for unexpected delays. Phelps-Stokes Fund, B-194347, May 21, 1979, 79-1 CPD 366.

Resource also alleges that human error should be considered when viewing the clock along with the assumption that the clock viewed by the official was the same as the clock above the information desk viewed by Resource on entering the building. The determination of the time to close receipt of offers must be made otherwise confusion and disagreement would result weakening the competitive system. This determination is properly made by the officer designated to accept the offers. Cf. Tate Architectural Products, Inc., B-191361, May 22, 1978, 78-1 CPD 389. We have also held that, while compliance with the proposal provisions may appear unduly harsh in certain circumstances, our Office is of the view that the negotiated system of procurement is strengthened

by adhering to the solicitation advice that only proposals received before the time stated would be for consideration unless the listed exceptions are applicable.

In view of the above, rejection of the late proposal was proper, and the protest, therefore, is summarily denied.

A handwritten signature in dark ink, reading "Milton J. Acosta". The signature is written in a cursive, flowing style.

Acting Comptroller General  
of the United States